

**EXHIBIT C**

(Testimony of Dr. Paul Freedenberg before the  
Senate Banking Committee chaired by Senator Phil  
Gramm of Texas, February, 7, 2001)

# **SENATE BANKING COMMITTEE**

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## **Hearing on Establishing an Effective Modern Framework for Export Controls.**

**Wednesday, February 7, 2001, 10:30 a.m - Dirksen 538**

### **Witness List and Prepared Testimony**

Mr. Dan Hoydysh

Computer Coalition for Responsible Exports

Dr. Paul Freedenberg

Association for Manufacturing Technology

Larry E. Christensen

Vice President of International Trade Content

Vastera Incorporated

Representing AeA (formerly known as the American Electronics Association)

Dr. Richard T. Cupitt

Associate Director

Center for International Trade and Security

University of Georgia

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A. Mr. Chairman, I'm pleased to address one of the most vexing problems facing American industry as they confront the export control regulatory scheme—the problem of getting a prompt response to requests for “commodity jurisdiction determinations.” As you know, exporters are frequently confronted with the question of whether a product is subject to the Export Administration Regulations administered by the Department of Commerce or the International Traffic in Arms Regulations, administered by the Department of State.

Often a product, particularly a new product, does not readily fall into one category or another and the exporter is left with a dilemma. He may guess which regulation governs his product, but if he guesses wrong he could face very serious consequences. Alternatively, he may take advantage of the provisions in the regulations to seek a commodity jurisdiction determination—usually referred to as a “CJ”. The problem is that it often takes months to get an answer, and that delay can be debilitating, particularly for a start up company. In a highly competitive world, that delay can spell the difference between success and failure.

Let me cite a specific example. Jaycor Tactical Systems, Inc., a start up company in San Diego principally owned by Jaycor, Inc., (an established company) has developed a range of non-lethal technologies that are of great interest to law enforcement and military agencies around the nation and overseas. Essentially, JTS's PepperBall™ product uses a commercially available paintball-type of compressed air launcher to fire projectiles containing Oleoresin Capsicum (OC) powder, which has been used for decades by law enforcement and the military in aerosol pepper sprays. The product, which has only recently been introduced to the market, is attracting much interest among

U.S. law enforcement agencies because of its great effectiveness. It is accurate and very effective at a range of 0 to 50 feet, the range most useful to police. As a credible alternative to a firearm, it has, over the past year, been used in several hundred instances to successfully quell violent suspects without resorting to lethal force.

Obviously, the company would like to market this product overseas. In April of last year, they began discussing with the Departments of Commerce, State, and Defense where their product would be classified. After receiving conflicting informal advice, they submitted a formal CJ request in June of 2000. Despite repeated calls to the government they have not yet received an answer. In fact, I understand that most recently they learned that one Department had misplaced some of the paperwork, resulting in even further delay.

The consequence of this delay, and delays suffered by countless other companies, is that U.S. exports are lost, U.S. jobs are placed in jeopardy, and foreign competition can gain the upper hand. In the case of JTS, Mr. Chairman, you can also imagine the utility that its non-lethal technology could be to Israeli security forces as they deal with Palestinian anger on the streets. Had JTS been able to export their PepperBall™ technology to Israel it is possible that many lives could have been saved.

The problem faced by JTS is faced daily by hundreds of companies. I don't know how many CJ requests are currently pending, but I urge the Committee to look into the unconscionable delay in responding to CJ requests. If the Administration won't speed up this process, then Congress should act to force the process, perhaps by enacting a mandatory time—say 60 days after a CJ request is filed—after which, if no answer is received, an exporter is free to export the product under the less restrictive regulation.